

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION**

IN RE:

MARTIN J. SMITH,
SSN: XXX-XX-4349

FOR AN ARRANGEMENT
UNDER CHAPTER 11
PROCEEDINGS.

LAURI B. SMITH,
SSN: XXX-XX-7886

CASE NUMBER 14-80263

Debtors.

**REQUEST TO RE-OPEN CASE TO FILE
DEBTORS' PLAN MODIFICATION**

COMES NOW the Debtors, MARTIN J. SMITH and LAURI B. SMITH, in the above-entitled case, by and through their attorney of record and hereby moves this Honorable Court to re-open the above referenced cause and would show this Honorable Court as follows:

- 1) The Debtors in Possession filed the petition for relief in the above styled Chapter 11 case on January 30, 2014.
- 2) The Chapter 11 Plan was confirmed, by this court, on November 12, 2014.

3) This Chapter 11 Bankruptcy was closed April 24, 2015. The Debtors' confirmed Amended Plan of Reorganization provides in Article VI, "After confirmation, the Debtors may remedy the Plan, any defect or omission or reconcile any inconsistency in the Plan, or in the order of the confirmation in such manner as it may be necessary to carry out the purposes and intent of this Plan, all such activities to be carried out subject to approval of the Court." and Article VII provides the following:

4. The correction of any defect, the curing of any omission or the reconciliation of any inconsistency in this Plan or the Order of Confirmation as may be necessary to carry out the purposes and intent of this Plan.

5. The modification of this Plan after confirmation pursuant to the Bankruptcy Rules and Title 11 of the United States Code.

4) The Debtors in Possession have moved to Arizona where he practices as an emergency room physician. Section 1127(f) of the Bankruptcy Code provides that an individual debtor's "plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;”

5) Debtors in Possession requests this Honorable Court to reopen their Chapter 11 Bankruptcy, allow Debtor to Sell his homestead in Alabama, pay the mortgage, allowing him to retain \$30,000 as Debtor’s homestead exemption, and pay the remainder to the IRS and State of Alabama pursuant to any valid liens they may be entitled as law and equity may require.

Wherefore, premises considered, the undersigned would request this Honorable Court re-open the above case to allow the Debtors in Possession to file a modification of the plan.

/s/ S. Mitchell Howie
S. MITCHELL HOWIE
Attorney for Debtor
107 North Side Square
Huntsville, Alabama 35801
(256) 533-2400

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Motion to Reopen filed by Debtors in Possession on 05-21-19 to all parties listed on the attached Creditors Matrix as well as the Trustee, via the Court’s CM/ECF Filing System and/or U.S. Mail on this, the 21st day of May, 2019.

/s/ S. Mitchell Howie
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